IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 33063 of 2006(J)

PETITIONER:

K.T.BHAGEERATHY,
ASSISTANT ENGINEER (WORKS), P.W.D.,
N.H.NORTH CIRCLE, KOZHIKODE.

BY ADV. SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE

RESPONDENTS:
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1. **THE STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, LOCAL SELF GOVERNMENT DEPARTMENT, GOVT.SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE SECRETARY TO GOVERNMENT, PUBLIC WORKS DEPARTMENT, GOVT. SECRETARIAT, THIRUVANANTHAPURAM.**

3. **THE CHIEF ENGINEER, P.W.D. (ADMINISTRATION), THIRUVANANTHAPURAM.**

4. **THE CHIEF ENGINEER, LOCAL SELF GOVERNMENT DEPARTMENT, THIRUVANANTHAPURAM.**

5. **THE SUPERINTENDING ENGINEER, N.H.CIRCLE, P.W.D., KOZHIKODE.**

BY GOVERNMENT PLEADER SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO. 33063/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE G.O.186/2000 DT.4.7.2000.

.EXT.P2:- COPY OF THE ORDER DT. 11.7.06 WITH LIST, OF THE 4TH RESPONDENT.

EXT.P3:- COPY OF THE CIRCULAR DT.1.7.06 ISSUED BY THE CHIEF ENGINEER, PWD ADMN.

EXT.P4:- COPY OF THE ORDER DT. 20.9.06 OF THE CHIEF ENGINEER, NATIONAL HIGH WAYS & PWD ADMN.

EXT.P5:- COPY OF THE REPRESENTATION DT.28.9.06 FROM THE PETITIONER TO 1ST RESPONDENT.

EXT.P6:- COPY OF THE JUDGMENT IN WP(C) NO.25019/06 DT. 4.10.06.

EXT.P7:- COPY OF THE JUDGMENT IN WP(C) no.26022/06 dt.4.10.06.

EXT.P8:- COPY OF THE ORDER DT. 15.11.06 OF CHIEF ENGINEER , N.H. & PWD, ADMN.

EXT.P9:- COPY OF THE ORDER DT. 17.11.06 OF THE 1ST RESPONDENT.

EXT.P10:- COPY OF THE ORDER DT. 27.11.06 OF THE 1ST RESPONDENT.

EXT.P11:- COPY OF THE REPRESENTATION DT.9.10.06 SRI.T.K.SUSEELAN.

EXT.P12:- COPY OF THE ORDER DT.24.2.07 G.O.(RT) NO.275/07/PWD.

EXT.P13:- COPY OF THE ORDER DT.28.2.07 OF THE CHIEF ENGINEER , PWD, ADMINISTRATION, THIRUVANANTHAPURAM.

EXT.P14:- COPY OF THE ORDER DT.26.4.07 OF THE CHIEF ENGINEER, LSGD, THIRUVANANTHAPURAM.

/TRUE COPY/

tss

K.BALAKRISHNAN NAIR, J.

W.P.(C) No.33063 of 2006-J

Dated this the 7th day of June, 2007.

J U D G M E N T

The petitioner is an Assistant Engineer in the Public Works Department. As per Ext.P2 order, she is proposed to be transferred to the Local Self Government Department, so that those who have completed 3 years in the said department can be repatriated. The petitioner has filed Ext.P5 representation against the said transfer order. The petitioner was Serial Number 26 in Ext.P2. She was transferred from the North Circle office at Kozhikode to the office at Feroke. She has raised various contentions in Ext.P5. One of the contentions is that her husband is a physically handicapped person. If she is transferred to the Local Self Government Department, she may not be able to properly nurse her husband. The next contention is the usual general contention that some of her juniors are continuing in the parent department. As per the direction of this Court, the Government considered her representation and rejected it, by Ext.P9.

2. This writ petition is filed, challenging Ext.P9 and seeking consequential reliefs. Normally, the juniors should be deployed first. But, there is no hard and fast rule which says that only after all the

juniors left the department, the petitioner could be posted. Further, a transfer from Kozhikode to Feroke will not cause any dislocation to the petitioner. The petitioner is drawing salary from public funds. There is surplus hands in PWD which could be deployed to the Local Self Government Department. Further, those who have already completed 3 years service in the Local Self Government Department should be repatriated. Therefore, in public interest the petitioners and others are deployed, under Ext.P2. So, the Government have rightly rejected the petitioner's representation. I find that the petitioner has no legal right to continue in the Public Works Department where she is surplus and to draw salary from the public funds.

In the result, the Writ Petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,
JUDGE.

MS